

Office Action Summary

Application No.

08/447,974

Applicant(s)

HARVEY ET AL.

Examiner

MICHAEL J. MOORE, JR.

Art Unit

2467

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2, 3, 7, 8, 10-12, 14, 16, 18, 26-30, 33 and 36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2, 3, 7, 8, 10-12, 14, 16, 18, 26-30, 33 and 36 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date _____
- 4) ☒ Interview Summary (PTO-413)
- Paper No(s)/Mail Date 10/15/09
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This application is in condition for allowance except for the following formal matters: The Administrative Requirement as set forth below.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213, (Comm'r Pat. 1935).

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

2. As the application has prosecution closed on the merits, Applicant is now required to make the submission to comply with the Administrative Requirement. Applicants' compliance will take the form of one of the following actions:

(1) Filing terminal disclaimers in each of the related co-pending applications terminally disclaiming each of the other co-pending applications;

(2) Providing an affidavit attesting to the fact that all claims in the co-pending applications have been reviewed by Applicant and that no conflicting claims exist between the applications; or

(3) Resolving all conflicts between claims in the identified co-pending applications by identifying how all the claims in the instant application are distinct and separate inventions from all the claims in the identified co-pending applications.

EXAMINER'S AMENDMENT

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided

by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Thomas J. Scott, Jr. (Reg. No. 27,836) on 10/15/09.

The application has been amended as follows:

Claim 2 (Currently Amended) A method of controlling the outputting of mass medium program material at a subscriber station, said subscriber station including an output device, a memory, a receiver, and a processor, wherein said output device is capable of presenting mass medium program material, said receiver has a signal output coupled as an input to the processor, said processor has an output operatively connected to a control input of said memory, and said memory is operatively connected to said output device for communicating mass medium program material to said output device, said method comprising the steps of:

storing, at said subscriber station, mass medium program material and subscriber data, said subscriber data designating a subject of interest of a subscriber;

receiving an instruct-to-generate signal;

generating a schedule by processing said subscriber data in response to said instruct-to-generate signal, said schedule designating at least one of:

a time to communicate said mass medium program material,

a device from which to communicate said mass medium program material, and

a device to which to communicate said mass medium program material;

storing said schedule;

controlling said memory to communicate said mass medium program material to said output device in accordance with said schedule; and

presenting said communicated mass medium program material at said output device.

Claim 3 (Currently Amended) A method of communicating subscriber station information from a subscriber station to at least one remote station, said method comprising the steps of:

(1) storing subscriber data at a subscriber station;

(2) receiving at said subscriber station at least one instruct signal which is used to generate a schedule and output mass medium program material in accordance with said schedule regarding mass medium program material, said schedule designating at least one of:

a time to communicate said mass medium program material,
a device from which to communicate said mass medium program material, and
a device to which to communicate said mass medium program material;
~~and output~~ outputting said mass medium program material in accordance with said schedule;

(3) generating subscriber specific data, said generating at said subscriber station directed by instructions from said at least one instruct signal;

(4) receiving one of a viewer's and a participant's response to a mass medium presentation at said subscriber station, said mass medium presentation including said mass medium program material; and

(5) transferring said subscriber specific data from said subscriber station to at least one remote station based on said step of receiving.

Claim 7 (Currently Amended) A method for information delivery for use with an interactive image output apparatus, said interactive image output apparatus having at least one output device for outputting said information and an input device for receiving input from a subscriber, said method comprising the steps of:

outputting a presentation that explains at least one receiver specific datum, said presentation including a first sequence of images;

making an offer during said step of outputting with respect to said information;

receiving input from said subscriber at said input device in response to said offer, said interactive image output apparatus having a transmitter for communicating data to a remote site;

communicating said data to said remote site, said interactive ~~mass medium~~ image output apparatus and said remote site comprising a network having a plurality of transmitter stations;

one of generating and assembling, in said network, at least one message which operates at said interactive image output apparatus to generate a schedule and to output a second sequence of images in accordance with said schedule, said interactive image output apparatus having a receiver for receiving a signal from a remote station, and said schedule designating at least one of:

a time to communicate said second sequence of images,

a device from which to communicate said second sequence of images, and

a device to which to communicate said second sequence of images; and
delivering said information to said at least one output device based on said at least one message.

Claim 26 (Currently Amended) A method of controlling the outputting of mass medium program materials at a subscriber station included in one or more subscriber stations in a broadcast or cablecast distribution system, said broadcast or cablecast distribution system having a transmitter station and said one or more subscriber stations, each of said one or more subscriber stations including a receiver, ~~a processor,~~ ~~and an output device, said broadcast or cablecast distribution system having~~ and a computer for storing data and controlling communication of mass medium program materials, said method comprising the steps of:

storing, at said subscriber station, mass medium program material and a subscriber datum, said subscriber datum designating a subject of interest to a subscriber;

detecting a control signal, said control signal designating a unit of mass medium program material;

selecting said subscriber datum in response to said control signal;

generating at least ~~some of~~ a portion of a schedule by processing said selected subscriber datum in response to said control signal, said generated at least ~~some a~~ portion of a schedule including at least one of the group of:

(1) a time to communicate said designated unit of mass medium program material;

(2) a device from which to communicate said designated unit of mass medium program material; and

(3) a device to which to communicate said designated unit of mass medium program material;

storing said at least a portion of a schedule;

communicating said designated unit of mass medium program material at said ~~one or more subscriber stations~~ station under processor control based on said at least a portion of a schedule; and

outputting said communicated unit of mass medium program material at said ~~one or more subscriber stations~~ station.

Claim 29 (Currently Amended) The method of claim 26, wherein said step of communicating said designated unit of mass medium program material under processor control includes controlling a storage device at said subscriber station to play said designated unit of mass medium program material according to said at least a portion of a schedule, said method further comprising the steps of:

tuning a receiver in said broadcast or cablecast distribution system to receive said designated unit of mass medium program material;

communicating said designated unit of mass medium program material to a specific memory location ~~in said broadcast or cablecast distribution system~~; and

controlling said storage device to store said designated unit of mass medium program material.

Claim 30 (Currently Amended) The method of claim 26, wherein said subscriber station includes at least one of (1) a plurality of storage devices and (2) a plurality of memory locations and said step of communicating includes organizing programming stored at said subscriber station to play according to said at least a portion of a schedule, said programming including said designated unit of mass medium program material.

Allowable Subject Matter

4. Claims **2, 3, 7, 8, 10-12, 14, 16, 18, 26-30, 33, and 36** are allowed.
5. The following is an examiner's statement of reasons for allowance:

The present invention is directed to the control of the scheduling and outputting of mass medium program material at a subscriber station.

Specifically, the present invention provides an ability to operate under the control of instructions transmitted by broadcasters.

Regarding *amended claim 2*, the closest prior art of record, *Yanagimachi et al.* (U.S. 3,936,595), teaches a system for distribution of programming to a subscribing receiver device, where control signaling is provided from the transmitter end to the receiver end such that desired programming may be extracted from a program stream by the receiver in a desired sequence (schedule).

However, *Yanagimachi et al.* as well as the other prior art of record fails to teach the desired sequence or schedule "designating at least one of:

a time to communicate said mass medium program material,

a device from which to communicate said mass medium program material, and

a device to which to communicate said mass medium program material;
storing said schedule" in combination with the other limitations of claim 2.

Independent claims **3, 7, and 26** are similarly allowable over the prior art of record, as they each also contain the above distinct features present in claim 2.

Regarding claims **8, 10-12, 14, 16, 18, 27-30, 33, and 36**, these claims are further limiting to the independent claims above, and are thus also allowable over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL J. MOORE, JR., whose telephone number is (571)272-3168. The examiner can normally be reached on Monday-Friday (7:30am - 4:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor William Korzuch can be reached at (571) 272-7589. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael J. Moore, Jr./
Primary Examiner, Art Unit 2467